



OFFICE OF  
INSURANCE COMMISSIONER

7331 04/23/98 \$75,000.00

OLYMPIA OFFICE:  
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OLYMPIA, WA 98504-0255  
Phone: (360) 753-7300

In the Matter of:

LEGION INSURANCE COMPANY

An Authorized Insurer

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No. D 98-53

Consent Order Levying a Fine

FINDINGS OF FACT:

1. In January 1995 Legion Insurance Company began selling professional liability coverage to psychiatrists in Washington State. The psychiatrists were all members of a purchasing group authorized by the Federal Liability Risk Retention Act of 1986.
2. On March 18, 1996, counsel for Legion Insurance Company made the company's first attempt to gain approval from the Office of the Insurance Commissioner (OIC) for the policy's rates and forms. This filing was disapproved pending the submission of additional information and documentation. The information was never received and the filing was closed as disapproved.
3. Beginning in May 1996, the OIC conducted extensive correspondence with Legion Insurance Company and its counsel concerning the company's use of unapproved rates and forms. Responses to OIC inquiries were late and inadequate.
4. In a July 15, 1996 letter to the OIC, company counsel stated that "Legion Insurance Company has not filed rates in Washington State in prior years" (p.2). The letter also stated that the law was unsettled regarding the extent to which state regulation of policy rates and forms was preempted by the Federal Liability Risk Retention Act. The OIC made a determination that the Risk Retention Act does not apply to filings of the type at issue here, as set forth in WAC 284-92-260 and adopted in 1993.
5. Legion Insurance Company has not furnished the OIC complete information to approve its rates and forms. As recently as June 5, 1998, the OIC disapproved--effective September 3, 1998--the Legion filing under the new "use and file" procedures set forth in RCW 48.19.043. The OIC disapproved Legion's filings five times in 1996 and 1997, and twice disapproved its filings in 1998.
6. The OIC has not granted approval to Legion for the rates and forms of its professional liability coverage for psychiatrists. During the entire time the OIC and Legion have corresponded on this matter, the company has continued to market and sell this policy in Washington State.

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CONCLUSIONS OF LAW:

1. Legion Insurance Company's failure to obtain approval for its rates and forms is a violation of RCW 48.18.100, RCW 48.19.040, and WAC 284-92-260.
2. Legion Insurance Company's failure to respond to OIC inquiries in a timely and adequate manner is a violation of WAC 284-30-360(2) and WAC 284-30-650.
3. RCW 48.05.185 authorizes the Commissioner to impose a fine in lieu of the suspension or revocation of a company's certificate of authority.

CONSENT TO ORDER:

Legion Insurance Company hereby admits to the foregoing Findings of Fact and Conclusions of Law, provided, however, that this Consent Order shall not be construed as an acknowledgment by the company that it agrees with OIC's determination that the Federal Risk Retention Act does not preempt filings of the kind in question, or that the specific grounds for OIC's disapproval of the filing are not preempted by federal laws.

The Commissioner has offered a settlement in lieu of suspending or revoking the company's certificate of authority.

By agreement of the parties, the OIC will impose a fine of \$120,000 and suspend \$45,000 on condition that:

1. Legion Insurance Company pay \$75,000 of the fine for its violations of RCW 48.18.100, RCW 48.19.040, and WAC 284-92-260. The OIC agrees that the penalty settles all violations of the Washington Insurance Code arising out of the facts of which OIC is aware as of the date of this order based upon its investigation of the company.
2. Legion Insurance Company obtain OIC approval of its rates and forms for the professional liability policies it sells to Washington State psychiatrists within sixty days of the entry of this consent order. Legion Insurance Company will not be found in violation of this term of the agreement should the OIC be responsible for delays in the evaluation of information that the company submits in a timely fashion.
3. Legion Insurance Company commit no further violations of RCW 48.18.100, RCW 48.19.040, and WAC 284-92-260 for a period of two years from the date on which this order is entered.



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This fine will be paid in full within thirty days of the entry of this order. Pursuant to RCW 48.05.185, failure to pay the fine within the allotted time shall constitute grounds for revocation of the insurer's certificate of authority, and for the recovery of the fine in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

Legion Insurance Company acknowledges its duty to comply fully with the applicable laws of the State of Washington.

EXECUTED this 18<sup>th</sup> day of August, 1998.

John S. Wall  
Title: Senior Vice President

ORDER:

Pursuant to RCW 48.05.185, the Insurance Commissioner hereby imposes a fine of one hundred twenty thousand dollars, with forty-five thousand dollars suspended, upon Legion Insurance Company. The fine must be paid in full within thirty days of the date of entry of this order. Failure to pay the fine within the allotted time shall constitute grounds for the revocation of the insurer's certificate of authority, and for the recovery of the fine in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington. The Commissioner may impose the balance of the suspended fine and suspend or revoke Legion Insurance Company's certificate of authority should the company fail to meet the conditions set forth in the "Consent to Order" section of this order.

ENTERED AT OLYMPIA, WASHINGTON, this 26<sup>th</sup> day of August, 1998.

DEBORAH SENN  
Insurance Commissioner

By

Jeffrey Coopersmith  
Jeffrey Coopersmith  
Chief Enforcement Attorney